

ORDINANCE NO. 2016-85

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA REPEALING AND RESCINDING ORDINANCE NO. 2013-88 (December 16, 2013) THAT REZONED PROPERTY FROM R-1 TO R-3-2; REZONING FROM R-3-2 (MULTIPLE FAMILY DISTRICT) TO R-3-3 (MULTIPLE FAMILY DISTRICT), AND GRANTING A VARIANCE PERMIT TO ALLOW A PERVIOUS AREA OF 21.9%, WHERE A MINIMUM OF 30% IS REQUIRED, A TOTAL LOT COVERAGE OF 38.25%, WHERE A MAXIMUM OF 30% IS ALLOWED; TO ALLOW 24 OFF-STREET PARKING SPACES, WHERE 27 SPACES ARE REQUIRED; WAIVING A PORTION OF THE CITY OF HIALEAH LANDSCAPE MANUAL REQUIREMENTS TO ALLOW A 5-FOOT LANDSCAPE BUFFER BETWEEN THE OFF-STREET PARKING AND THE RIGHT-OF-WAY, WHERE A 7-FOOT BUFFER IS REQUIRED, AND ELIMINATE THE LANDSCAPE ISLAND, WHERE A LANDSCAPE ISLAND IS REQUIRED AT A MINIMUM EVERY 10 PARKING SPACES FOR SHADE DISTRIBUTION, AND TO ALLOW THE A REAR SETBACK OF 10 FEET, WHERE 20 FEET ARE REQUIRED, A CORNER SIDE SETBACK ABUTTING THE STREET OF 13.3 FEET, WHERE 15 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-2056(1), 98-590, 98-591, 98-2189(19)(b), 98-2197(a). **PROPERTY LOCATED AT 1120 WEST 37 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 26, 2016 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1. Hialeah, Fla. Ordinance 2013-88 (December 16, 2013) is hereby repealed and the below-described property is hereby rezoned from R-3-2 (Multiple Family District) to R-3-3 (Multiple Family District).

Section 2: The below-described property is hereby granted a variance permit to (i) allow a pervious area of 21.9%, where a minimum of 30% is required, contra to Hialeah Code § 98-2056(b)(1) that provides “A minimum of 30 percent of the net residential land area shall be maintained in landscaped open space...”; (ii) allow a total lot coverage of 38.25%, where a maximum of 30% is allowed, contra to Hialeah Code §98-2056(b)(2) that provides “a maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure; (ii) allow 24 off-street parking spaces, where 27 spaces are required, contra to Hialeah Code §98-2189(19)(b), that provides “Residential developments... Medium and high density. Two parking spaces for one or two bedrooms, and one-half parking space for each additional bedroom.”; (iii) waive a portion of the City of Hialeah landscape manual requirements to allow a 5-foot landscape buffer between the off-street parking and the right-of-way, where a 7-foot buffer is required, and eliminate the landscape island, where a landscape island is required at a minimum every 10 parking spaces for shade distribution, contra to Hialeah Code § 98-2197(a), that provides: “Off-street parking areas shall be landscaped according to the latest edition of the Miami-Dade County Landscape Manual for off-street parking and other vehicular use areas, as modified and supplemented by the city landscape manual, except that in peripheral landscaped areas along a right-of-way or adjacent to a front yard, trees shall be located no farther apart than 45 feet on center with a minimum of two trees for each right-of-way frontage and except as provided in R-Z

residential districts.”; (iv) allow a rear setback of 10 feet, where 20 feet are required, contra to Hialeah Code § 98- 591 that provides: “[i]n the R-3 multiple-family district, there shall be a 20-foot rear yard setback[,]”; and (v) allow a corner side setback abutting the street of 13.3 feet, where 15 feet are required, contra to Hialeah Code § 98-590 that provides: “[i]n the R-3 multiple-family district, there shall be side yards, and the width of each shall not be less than ten feet. For a corner lot, the side yard parallel abutting the street shall be not less than 15 feet.” **Property located at 1120 West 37 Street, Hialeah, Miami-Dade County, Florida** and legally described as follows:

COMMENCE AT THE NORTHWEST CORNER OF THE REAL ESTATE DESCRIBED AS FOLLOWS: THE NORTH 858 FEET OF THE NW OF THE NW Y2 OF SECTION 12, TOWNSHIP 53 SOUTH, RANGE 40 EAST; THENCE EASTERLY ALONG THE NORTHERLY LINE THEREOF, A DISTANCE OF 530 FEET FOR A POINT OF BEGINNING; THENCE SOUTHERLY PARALLEL TO THE WESTERLY LINE THEREOF, A DISTANCE OF 235 FEET, THENCE EASTERLY PARALLEL TO THE NORTHERN LINE THEREOF, A DISTANCE OF 100 FEET, THENCE NORTHERLY PARALLEL TO THE WESTERLY LINE THEREOF, A DISTANCE OF 235 FEET, THENCE WESTERLY ALONG THE NORTHERN LINE THEREOF A DISTANCE OF 110 FEET TO THE POINT OF BEGINNING LYING AND BEING IN THE CITY OF HIALEAH, MIAMI-DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to

exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

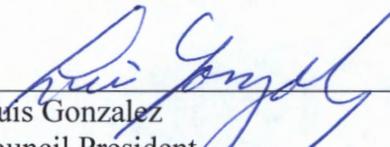
Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

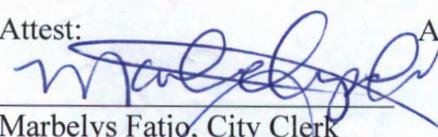
Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

THE FOREGOING ORDINANCE PASSED and ADOPTED this 22 day of November, 2016.
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



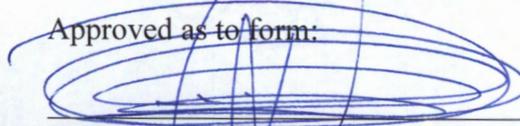
Luis Gonzalez
Council President

Attest:


Marbelys Fatjo, City Clerk

Approved on this 6 day of December, 2016.


Mayor Carlos Hernandez

Approved as to form:


Lorena E. Bravo, City Attorney
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Ordinance was adopted by a (6-0-1) vote with Councilmembers, Caragol, Gonzalez, Hernandez, Garcia-Martinez, Cue-Fuente and Casals-Muñoz voting "Yes". Councilwoman Lozano absent.